

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF TEXAS
MIDLAND-ODESSA DIVISION**

IN RE:

**MARTIN OCHOA &
MORAYMA OCHOA**

DEBTORS

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**CASE NO. 17-70028
CHAPTER 13**

**DEBTOR'S MOTION FOR TURNOVER
2006 FORD F-150
AND CONTEMPT**

TO THE HONORABLE JUDGE OF SAID COURT:

Now comes **MARTIN OCHOA & MORAYMA OCHOA** ("Debtors"),
and would show:

1. This Court has jurisdiction of this matter under 28 U.S.C. §§ 1334 and 157, and venue under 28 U.S.C. §§ 1408 and 1409. This motion is brought pursuant to 11 U.S.C. § 542. This is a core matter.

2. On February 8, 2017, Debtors filed a voluntary Petition for relief under Chapter 13 (the "Petition date") herein. The Notice of Bankruptcy was faxed to (432) 580-0997 Love's Auto Sales. Debtor's counsel spoke to Love's Auto Sale about the bankruptcy request for turnover of the 2006 Ford F-150.

3. Debtor's 2006 Ford F-150 was repossessed on or about January 2017.

4. Prior to the Petition date, Debtor was indebted to Love's Auto Sales, ("Creditor").

5. The vehicle that was the subject of the contract is a 2006 Ford F-150. The total amount still owing on the contract as of the petition date is approximately \$7139.51.

6. The Debtor may exempt the vehicles under 11 U.S.C. § 522. The Debtor has the vehicle insured. A copy of the vehicle insurance was faxed to Love's Auto Sales on February 8, 2017. See attached Exhibit "A."

7. On February 8, 2017, the Debtor's attorney requested that the Creditor return the vehicle and have the debt treated under the Plan.

8. At the filing of this Motion to Compel Turnover Love's Auto Sales had not responded.

9. Debtors counsel seeks attorney fees of \$750.00 for having to file the motion to compel turnover.

10. The Creditors' actions of continuing to refuse to turnover the vehicles constitute a violation of the automatic stay. 11 U.S.C. § 362; *In re Zaber*, 223 B.R. 102, 107 (Bkrtcy.N.D.Tex. 1998). The Creditor has had notice of the bankruptcy and has had a reasonable time to respond. The Creditor's refusal to turn over the vehicle is willful and its exercise and control of the property of the estate is an attempt at overreaching at the expense of the Debtor and other Creditors.

11. Debtors further ask the court to award punitive damages against Love's Auto Sales of \$1,000.00 for each violation of the automatic bankruptcy stay.

WHEREFORE, PREMISES CONSIDERED, Debtor prays for an Order directing that the Creditor turnover the said vehicle to the Debtor (in lieu of the Trustee) in accordance with 11 U.S.C. § 542 and allowing the debt as finally determined by this Court to be treated under the Chapter 13 Plan; and for such other and further relief to which Debtors may be entitled.

Respectfully submitted,



/s/Alvaro Martinez, Jr.
Alvaro Martinez, Jr.
State Bar No. 24032576
1607 N. Big Spring
Midland, Texas 79705
Tel: (432) 789-1044
Fax: (432) 789-1041

CERTIFICATE OF SERVICE

On this day, a true and correct copy of the above *Motion* was forwarded via United States First Class Mail, postage prepaid, to the parties listed on the attached mailing matrix, as well as to the following:

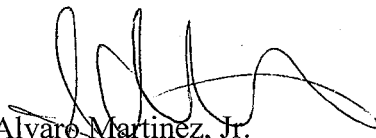
U.S. Trustee's Office
Western District of Texas
P.O. Box 1539
San Antonio TX 78295

Gary Norwood Esq.
Chapter 13 Trustee
P.O. Box 2331
Midland, TX 7902

Love's Auto Sales
1929 East 8th St.
Odessa, TX 79761
Via fax 432.580.0997

Martin Ochoa
Morayma Ochoa
10594 W. Elizabeth Ln.
Odessa, TX 79764

Date: February 8, 2017.


/s/Alvaro Martinez, Jr.
Alvaro Martinez, Jr.

Your ID Card

- This is your Policy Identification Card.
- Please destroy your old ID cards when your new cards become effective.
- Notify us promptly of any address change to be sure you receive all important policy documents.
- Your policy is recorded under the name and policy number shown on the card.



Elephant Insurance Company
P.O. Box 5005,
Glen Allen, VA 23058
1-877-218-7865 elephant.com

Policy Number: 244-001-227-21

Effective Date: 10/19/2016 **Expiration Date:** 10/19/2017

Vehicle:
2006 FORD F-150
1FTPW14556KA80773

Insured Name and Address:

Martin G Ochoa Jr.
10594 West Elizabeth Lane
Odessa, TX 79764

Additional Drivers:

Morayma B Ochoa, Yvette E Ochoa

Named Driver(s) Excluded from Policy Coverage:

This policy provides at least the minimum amounts of liability insurance required by the Texas Motor Vehicle Safety Responsibility Act for the specified vehicle and named insureds and may provide coverage for other persons and other vehicles as provided by the insurance policy.

Texas Liability Insurance Card
Keep this card

IMPORTANT: This card or a copy of your insurance policy must be shown when you apply for or renew your:

- Motor vehicle registration
- Driver's License
- Motor vehicle safety inspection sticker

You also may be asked to show this card or your policy if you have an accident or if a peace officer asks to see it.

All drivers in Texas must carry liability insurance on their vehicles or otherwise meet legal requirements for financial responsibility. Failure to do so could result in fines up to \$1,000, suspension of your driver's license and motor vehicle registration, and impoundment of your vehicle for up to 180 days (at a cost of \$15 per day).



Elephant Insurance Company
P.O. Box 5005,
Glen Allen, VA 23058
1-877-218-7865 elephant.com

Número de Póliza: 244-001-227-21

Fecha Efectiva: 10/19/2016 **Fecha de Expiración:** 10/19/2017

Vehículo:
2006 FORD F-150
1FTPW14556KA80773

Nombre y Dirección del Asegurado:

Martin G Ochoa Jr.
10594 West Elizabeth Lane
Odessa, TX 79764

Conductores Adicionales:

Morayma B Ochoa, Yvette E Ochoa

Conductor(es) Excluidos de la Cobertura de la Póliza:

Esta póliza provee por lo menos la cantidad mínima de seguro de responsabilidad requerida por ley (Texas Motor Vehicle Safety Responsibility Act) para el vehículo especificado y para los asegurados nombrados, y puede proveer cobertura para otras personas y otros vehículos según provisto en la póliza de seguro.

Tarjeta de Seguro de Responsabilidad de Texas
Guarde esta tarjeta

IMPORTANTE: Esta tarjeta o una copia de su póliza de seguro debe ser mostrada cuando usted solicite o renueve su:

- Registro de vehículo de motor
- Licencia para conducir
- Etiqueta de inspección de seguridad para su vehículo

Puede que usted tenga también que mostrar esta tarjeta o su póliza si la paz se la pide.

Todos los conductores en Texas deben tener seguro de responsabilidad para sus vehículos, o de otra manera llenar los requisitos legales de responsabilidad civil. Fallo en llenar este requisito pudiera resultar en multas de hasta \$1,000, suspensión de su licencia para conducir y su registro de vehículo de motor y la retención de su vehículo por un período de hasta 180 días (a un coste de \$15 por día).

Ex A